

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Laird Analyst: William Koch Bill Number: AB 2930  
Related Bills: See Legislative History Telephone: 845-4372 Amended Date: February 22, 2008  
Introduced Date: & April 2, 2008  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Natural Heritage Preservation Tax Credit-Extend Indefinitely

### SUMMARY

This bill would do the following:

- Extend the Natural Heritage Preservation tax credit indefinitely, and
- Allow the Wildlife Conservation Board (WCB) to award the Natural Heritage Preservation (NHP) tax credit without monetary limit, as specified.

This analysis addresses only provisions in the bill that would impact the Franchise Tax Board (FTB). This is the department's first analysis of this bill.

### SUMMARY OF AMENDMENTS

The April 2, 2008, amendments would make changes to the bill that do not impact the department.

### PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to save state and local agencies' funds when they acquire property from donors who are awarded the NHP tax credit.

### EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2008.

### POSITION

Pending.

#### Board Position:

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#### Department Director

#### Date

Selvi Stanislaus

4/22/08

## **ANALYSIS**

### **STATE LAW**

Under the California Public Resources Code (PRC), the Natural Heritage Preservation Tax Credit Act of 2000 was established to encourage donations of land to the state, local governments, and designated nonprofit organizations. The donated property must be approved for acceptance by the WCB, which notifies FTB of the amount of tax credit awarded for each donation.

Under the PRC, the WCB has the authority to award no more than a total of \$100 million in NHP tax credits beginning with fiscal year 2000-01. The WCB may not award credits after June 30, 2008, without further statutory authorization.

Under the California Revenue and Taxation Code (R&TC), a taxpayer is allowed an income tax credit of up to 55% of the donated property's fair market value. Any unused credit may be carried over for eight years.

Within 60 days of notification from FTB, the WCB is required to reimburse the Natural Heritage Preservation Tax Credit Reimbursement Account within the state's General Fund (GF) for the amount of the NHP tax credits claimed on income tax returns. The WCB is authorized to use bond funds to reimburse the GF.

### **THIS BILL**

This bill would remove the June 30, 2008, sunset date of the NHP tax credit. This would allow the WCB to award the NHP tax credits indefinitely. This bill would also remove the current NHP tax credit award limit of \$100 million, which would allow the WCB to award the credit without monetary limit.

The award of the NHP tax credits would continue to be contingent upon the GF being reimbursed by the WCB for all lost revenue resulting from the award of the NHP tax credits.

### **IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would not significantly impact the department.

## **LEGISLATIVE HISTORY**

SB 1100 (Sen. Budget Committee, Stats. 2004, Ch. 226) extended the period in which the NHP tax credits may be awarded and claimed from fiscal year 2004-05 to 2007-08.

AB 2722 (Laird, Stats. 2004, Ch. 715) allowed the WCB to use bond funds to reimburse the GF for lost revenue resulting from the award of the NHP tax credits.

SB 1647 (O'Connell, Stats. 2000, Ch. 113) established the Natural Heritage Preservation Tax Credit Act of 2000.

## OTHER STATES' INFORMATION

*Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws do not provide a credit comparable to the credit allowed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

## FISCAL IMPACT

This bill would not significantly impact the department's costs.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 2930 Assume Effective For Tax Years Beginning On or After January 1, 2008 Enactment Assumed After June 30, 2008 (\$ in Millions)			
2008-09	2009-10	2010-11	2011-12
-\$3	-\$7	-\$7	-\$7

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

### Revenue Discussion

The revenue impact of this bill would depend on the fair market value of the land donated for credits and the amount of credits that can be applied to reduce tax liabilities.

The WCB reports that \$48.6 million in tax credits have been allocated to date. Actual credits claimed on tax returns totals \$23.4 million from 2001-02 through 2006-07, an average of approximately \$4 million annually.

Credit usage varies from a high of \$8.3 million in 2001-02 to a low of \$1.4 million in 2004-05. The NHP tax credit was suspended in 2002-03, 2003-04, and 2004-05; credits could be carried over to succeeding years.

Because this bill would allow local governments to bring completed applications directly to the WCB for approval, it is anticipated that more credits would be awarded, approximately \$7 million annually. Assuming this bill would be effective January 1, 2008, the 2008-09 revenue loss of \$3 million reflects the last 6 months of the fiscal year because current law would expire after June 30, 2008.

This estimate addresses the revenue impact to the Personal Income Tax and Corporation Tax funds. Generally, bond issuance and the related debt service and interest costs to the GF are not addressed by FTB.

When taxpayers use tax credits to reduce tax liabilities, tax revenue to the income tax funds, which are within the GF, are reduced. Under current law, bonds are used to reimburse the GF for the amounts awarded by the NHP tax credit. As indicated in the "This Bill" section, the award of the NHP tax credits would continue to be contingent upon the GF being reimbursed by the WCB for all lost revenue resulting from the award of the NHP tax credits.

#### **LEGISLATIVE STAFF CONTACT**

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